

THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION

UNITED STATES OF AMERICA	§	
	§	
vs.	§	CRIMINAL NO. 4:16CR161
	§	
VICTOR HUGO ALEJANDRES (2)	§	

**REPORT AND RECOMMENDATION ON
DEFENDANT'S COMPETENCY TO STAND TRIAL**

Pursuant to 28 U.S.C. § 636(b) and the Local Rules for the United States District Court for the Eastern District of Texas, this criminal proceeding is before the undersigned United States Magistrate Judge.

On July 28, 2017, Defendant's counsel filed a Motion for Psychological and/or Psychiatric Examination [Dkt. 90] seeking a psychiatric examination, pursuant to 18 U.S.C. §§ 4241 at an appropriate Bureau of Prisons facility, and that a psychiatric report of findings be filed with the Court consistent with 18 U.S.C. §§ 4247(b). The Court granted that motion on August 1, 2017 [Dkt. 91]. Defendant was subsequently evaluated by Dr. Allyson N. Wood. The Court has received the report from the Bureau of Prisons, and copies have been furnished to the Assistant United States Attorney and defense counsel.

A competency hearing was conducted on January 9, 2018, before U.S. Magistrate Judge Christine A. Nowak, where the report was admitted. At the hearing, Defendant appeared in court with his counsel, Frank Henderson. Defendant was given the opportunity to present evidence and call witnesses. Defendant did not offer any witnesses or evidence. Moreover, Defendant did not present any objections to the report, including specifically Dr. Wood's opinion on competency. The Government also did not object to the report findings.

Dr. Wood's report concludes, Defendant "is not currently suffering from a mental disease or defect rendering him mentally incompetent to the extent he is unable to understand the nature and consequences of the proceedings against him or properly assist in his defense."

The undersigned, having considered the report, and the lack of objection thereto, concludes that Defendant is not mentally incompetent and is able to understand the nature and consequences of the proceedings against him and to assist properly in his defense. Defendant has a rational and factual understanding of the proceedings against him, and has sufficient present ability to consult with his attorney with a reasonable degree of rational understanding. 18 U.S.C. §4241(d).

RECOMMENDATION

For the foregoing reasons, the Court recommends that Defendant be found competent to stand trial because he understands the nature and consequences of the proceedings against him and is able to assist in his defense. See 18 U.S.C. § 4241. It is further recommended that the speedy trial time be excluded from July 28, 2017 (the date the Defendant filed the Motion for Psychological and/or Psychiatric Examination), until the date on which the District Judge signs the order adopting this report and recommendation.

Both Parties waived the fourteen (14) day objection period.

SIGNED this 9th day of January, 2018.



Christine A. Nowak
UNITED STATES MAGISTRATE JUDGE